

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Moore, Claude

(b) County of Residence of First Listed Plaintiff Berks County, PA

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Scott B. Cooper
Schmidt Kramer PC
209 State Street
Harrisburg, PA 17101
(717) 232-6300

DEFENDANTS

Exide Technologies, Inc.

County of Residence of First Listed Defendant Fulton County, GA

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1332Brief description of cause:
Negligent loading.**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMAND \$**

In excess of \$75,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

18

3445

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 737 N. Front Street, Reading, PA 19601

Address of Defendant: 13000 Deerfield Parkway, Building 200, Milton, GA 30004

Place of Accident, Incident or Transaction: 829 Paramount Avenue, Lampeter, PA 17537

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when *Yes* is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 8/10/18 [Signature] 70242

Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
- (Please specify) _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☒ 5. Motor Vehicle Personal Injury
- ☒ 6. Other Personal Injury (Please specify): Negligent loading
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases
- (Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

Scott B. Cooper, counsel of record or pro se plaintiff, do hereby certify



Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.



Relief other than monetary damages is sought.

DATE: 8/10/18 [Signature] 70242

Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE A trial de novo will be a trial by jury only if there has been compliance with F R C P 38

AUG 14 2018

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Claude Moore

v.

Exide Technologies, Inc.


CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

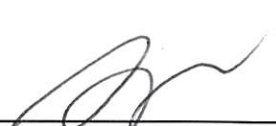
- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)



Date

(717) 232-6300

Telephone



Attorney-at-law

(717) 232-6467

FAX Number

Plaintiff

Attorney for

scooper@schmidtkramer.com

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CLAUDE MOORE	:	CIVIL ACTION – LAW
	:	
	:	
PLAINTIFF	:	
v.	:	No.
	:	
EXIDE TECHNOLOGIES, INC.	:	
	:	
	:	
DEFENDANT	:	JURY TRIAL DEMANDED

COMPLAINT

AND NOW, comes Plaintiff Claude Moore, by and through his attorney,
Schmidt Kramer PC, and avers the following:

PARTIES

1. Plaintiff Claude Moore is an adult individual and citizen of the Commonwealth of Pennsylvania, residing at 737 N. Front Street, Reading, Berks County, Pennsylvania 19601.
2. Defendant Exide Technologies, Inc. (hereinafter referred to as “Defendant Exide”) is a business corporation incorporated in the state of Delaware with a registered business address of 13000 Deerfield Parkway, Building 200, Fulton County, Georgia 30004.

ALLEGATIONS OF JURISDICTION AND VENUE

3. Jurisdiction in this matter is based upon diversity of citizenship in accordance with 28 U.S.C. § 1332.
4. Plaintiff Claude Moore is seeking damages in excess of \$150,000.00, exclusive of interest, costs, and attorney fees.
5. Plaintiff Claude Moore is a resident of Pennsylvania; Defendant Exide is a resident Delaware with a registered business address of 13000 Deerfield Parkway, Building 200, Fulton County, Georgia 30004.
6. The accident in question took place in Lancaster County, Pennsylvania.
7. Venue is proper under 28 U.S.C. §1391(a).

OPERATIVE FACTS

8. The facts and occurrences hereinafter related took place on or about September 26, 2016.
9. Plaintiff Claude Moore was the owner and operator of a tractor-trailer that was being used to transport a load from Defendant Exide's Lampeter, Pennsylvania facility to its Salina, Kansas facility.
10. Defendant Exide's employees loaded Plaintiff Claude Moore's tractor-trailer for transport by double stacking pallets into the rear of the trailer and then failed to secure them.

11. Defendant Exide prevented Plaintiff Claude Moore from leaving the cab of his tractor-trailer and did not give him an opportunity to inspect the load prior to Plaintiff Claude Moore beginning transport.

12. Plaintiff Claude Moore traveled with the load to its intended delivery destination in Salina, Kansas and completed the delivery on September 29, 2016 at the Exide Technologies facility at 413 E. Berg Road, Salina, Kansas 67401 at approximately 10:00 a.m.; he began to unload his tractor-trailer at approximately 11:00 a.m.

13. At that time and place, Plaintiff Claude Moore opened his trailer doors to prepare to back load up onto the loading docks, and in doing so, several large pallets that had been double-stacked fell out of the trailer, knocking him to the ground and pinning him underneath the pallets.

14. The incident at issue was initiated and factually caused by the negligence of Defendant Exide, consisting of the following:

- a. Failure to exercise due care to protect property and persons from risk of harm;
- b. Failure to exercise reasonable care in securing the cargo being transported by Plaintiff Claude Moore;
- c. Failure to ensure the cargo being transported was loaded safely;
- d. Failure to provide its employees with detailed training and instructions on how to properly load and secure cargo into the trailer prior to transport; and

- e. Failure to provide Plaintiff Claude Moore an opportunity to inspect the cargo once it had been loaded to ensure it was properly secured and to discover any latent and concealed defects.

15. As a result of Defendant Exide's foregoing failures, the load shifted, became unstable, or otherwise became dangerous for any person who might encounter it.

16. As a result of its failure to properly secure the load in Plaintiff Claude Moore's trailer, Defendant Exide created a dangerous and hazardous condition that posed a danger to others.

17. Defendant Exide knew, or should have known, that its creation of this dangerous or hazardous condition posed a danger to individuals likely to encounter it.

18. Plaintiff Claude Moore was an individual who Defendant Exide should have expected to be exposed to the condition created through its negligence and failure to exercise due care.

19. The danger to Plaintiff Claude Moore was not readily observable to him, and he had no notice or warning of the dangerous nature of same.

20. Despite Plaintiff Claude Moore's exercise of due care and caution, the hazardous condition created by Defendant Exide resulted in the loaded pallets shifting during transport, then falling from the trailer causing serious and permanent bodily harm to Plaintiff Claude Moore.

21. As a result of the negligence and failure to exercise due care in loading the pallets into Plaintiff Claude Moore's trailer, the pallets fell out of the trailer when the doors were open, causing injuries to Plaintiff Claude Moore that include, but are not limited to:

- a. Lower back pain;
- b. Neck pain;
- c. Headaches;
- d. Abdominal pain, including internal bruising to stomach;
- e. Right ankle fracture;
- f. Right knee pain; and
- g. Right arm pain.

22. As a direct and proximate result of this incident, Plaintiff Claude Moore has been advised, and therefore avers, that he has suffered injuries that are or were serious and may be permanent in nature and effect, and claim is made therefor.

23. By reason of the injuries he sustained in this incident, Plaintiff Claude Moore has incurred liability for medical treatments, medications, and similar expenses in an effort to restore himself to health, and claim is made therefor.

24. Because of the nature of his injuries, Plaintiff Claude Moore has been advised, and therefore avers, he may be forced to incur similar expenses in the future, and claim is made therefor.

25. As a result of the aforementioned injuries, Plaintiff Claude Moore has undergone, and in the future will undergo, great physical and mental suffering,

great inconvenience in carrying out his daily activities, loss of life's pleasures and enjoyment, and claim is made therefor.

26. Plaintiff Claude Moore continues to be plagued by persistent pain and limitations, and therefore avers his injuries may be of a permanent nature, causing residual problems for the remainder of his lifetime, and claim is made therefor.

27. As a direct and proximate result of this incident, Plaintiff Claude Moore has suffered serious impairment of his daily functions, including the ability to perform his normal activities, and claim is made therefor.

28. As a result of the aforementioned injuries, Plaintiff Claude Moore has sustained uncompensated work loss, and claim is made therefor.

29. As a result of the aforementioned injuries, Plaintiff Claude Moore may sustain work loss, loss of opportunity, and permanent diminution of his earning power and capacity, and claim is made therefor.

WHEREFORE, Plaintiff Claude Moore respectfully requests Your Honorable Court grant judgment in his favor and against Defendant Exide Technologies, Inc. in an amount in excess of \$150,000.00, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

Respectfully submitted,

SCHMIDT KRAMER PC

By: 

Scott B. Cooper, Esquire

I.D. No. 70242

209 State Street

Harrisburg, Pa 17101

(717) 232-6300

(717) 232-6467 Fax

scooper@schmidtkramer.com

Attorney for Plaintiff

Date:

8/10/18

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

SCHMIDT KRAMER PC

By: _____


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Attorney for Plaintiff

Date: _____

8/10/18